



DEPARTMENT OF THE AIR FORCE

ARLINGTON, VA 22203-1613

Office of the Deputy General Counsel

01 SEP 2004

MEMORANDUM IN SUPPORT OF THE DEBARMENTS OF:

ALLIED PRECISION PRODUCTS, INCORPORATED
BEN L. SKINNER
VIVIAN GRANT
J.B. SKINNER
STEVE BREWSTER

On September 29, 2003, the Air Force proposed the debarments of Allied Precision Products, Incorporated (APPI), Ben Skinner (B. Skinner), Vivian Grant (Grant), J.B. Skinner (J. Skinner) (collectively, "Respondents"), and Steve Brewster (Brewster) from government contracting and from receiving directly or indirectly the benefits of federal assistance programs. These actions were initiated pursuant to Federal Acquisition Regulation (FAR) Subpart 9.4.

By letters dated November 4, 2003, March 31, 2004 (two), July 9, 2004, July 20, 2004 (two), and July 29, 2004, the Respondents submitted information and arguments in opposition to the proposed debarments (Respondents' submissions). By letters dated February 14, 2004, and February 15, 2004, Brewster submitted information and arguments in opposition to the proposed debarments (Brewster's submissions) (collectively, the submissions).¹ I have carefully read the submissions and all information in the administrative record (the record).

INFORMATION IN THE RECORD

Information in the record indicates that at all times relevant hereto:

1. APPI was a Florida corporation that manufactured fasteners and small machine parts for the Department of Defense (DoD), including the Air Force.
2. B. Skinner was the President and shareholder of APPI.
3. Grant was the Secretary of APPI.
4. J. Skinner was the Vice President of APPI.
5. Brewster was the Quality Manager of APPI.

¹ Brewster was debarred on February 13, 2004, having failed to respond to his notice of proposed debarment. In Brewster's subsequent submission, he states that he had not been aware of his proposed debarment. His submission will therefore be considered here as a request to reconsider his debarment.

6. APPI had several DoD contracts, including contracts SP0540-02-M-QTB5 (contract QTB5) and SPO441-02-M-S227 (contract S227). During source inspections, numerous items under the aforementioned contracts were rejected due to non-conforming material, incorrect sample size, and dimensional defects.

7. Under contract S227, APPI manufactured sleeve bushings that were shipped to Tinker Air Force Base, OK, for use on Air Force platforms for the C-135, C-141, C-130, F-100, and A-10 aircraft. Testing revealed that out of 1000 sleeve bushings, 624 were non-conforming.

8. In 2001, under contracts SPO750-M-J151 (contract J151), SPO750-00-V-1452 (contract 1452), SPO740-02-V-7879 (contract 7879), and SPO750-00-V-B517 (contract B517) (collectively, "the contracts"), three corrective action requests (CAR) were issued for non-conforming products and defects. In early 2002, twenty-three CARs were issued for non-conformances and defects in the materials. APPI responded to the CARs but did not take affirmative steps to remedy the problems, and additional lots were rejected at inspection.

9. On March 15, 2002, a Level III CAR² was issued. Once again, APPI did not adequately address the CAR or take sufficient action to correct the product defects. On September 16, 2002, a Level IV CAR³ was issued based on APPI's inability to take corrective action for parts identified in the Level III CAR.

10. Since the Level IV CAR was issued on September 16, 2002, APPI has not taken sufficient action to correct their product management and as a result, several lots have been rejected for various contracts. APPI continues to remain in a Level IV CAR status.

ANALYSIS

Respondents

In their submissions, the Respondents dispute, or provide rationale for, several of the contractual deficiencies cited above. They admit contract S227 does provide a basis for the debarments,⁴ and offer to replace or provide full credit for those parts. Otherwise, Respondents either do not deny, or implicitly acknowledge, the non-conformance with numerous other contractual requirements.

Items produced pursuant to contracts QTB5 and S227 were rejected due to non-conforming material, incorrect sample size, and dimensional defects. Respondents cite

² Level III CARs involve escalation of serious contractual non-compliances to top contractor management, and may incorporate contractual remedies such as reductions of progress payments, cost disallowances, cure notices, show cause letters (manual or electronic), or business management systems disapprovals.

³ Level IV CARs involve contractual remedies such as suspension of progress payments or product acceptance activities, termination for default, and suspension or debarment, in accordance with FAR/DFARS policies and procedures.

⁴ B. Skinner states in the first March 31, 2004 submission (concerning contract S227), "Aside from contract S227 mentioned above, the attached report [the second March 31, 2004 submission (hereinafter "the Report")] concerning the other seven contracts in question concludes there is no justification therein to debar a supplier of 55 years standing."

automatic screw adjustments to correct “drifting” under QTB5, and their inability to work with Defense Contract Management Agency (DCMA) personnel in St. Petersburg, as cause for problems under S227. Neither of these explanations addresses the incorrect sample size and non-conforming goods noted above.

For the parts rejected under contracts J151 and 1452, Respondents argue these parts *might* have been usable. However, they do not dispute the Government’s claim that the parts did not meet contract specifications. The undisputed fact is the parts submitted under these contracts did not meet the contract requirements and were non-conforming.

Respondents knowingly supplied to the Government parts that did not meet the drawing requirements of contract 7879. Respondents dismissed these dimensional defects noting that its own inspection department accepted the parts “because the dimension [was] not relevant.” The Government had not authorized the Respondents to deviate from the contract specifications. Their admitted willful failure to perform in accordance with the terms of this government contract provides a separate basis for their debarments.

Despite the fact B. Skinner was “shocked at the material our inspections passed through to the Shipping Department,”⁵ Respondents argue that the parts under contract B517 were all “usable” and “posed no danger to the users.” Respondents do not dispute that the parts were non-conforming, yet they fail to appreciate the seriousness of providing parts that do not conform to government contract specifications.

Brewster

Brewster argues in his February 14, 2004 submission that APPI has not employed him since April 16, 2003, and that the events giving rise to these debarments were a result of B. Skinner’s poor business decisions. These arguments have no merit as to Brewster’s responsibility as a Government contractor. The CARs were all issued prior to April 16, 2003, while Brewster was employed by APPI in various capacities, including Plant Manager, production control, and quality trainer. Brewster does not contest the Government’s contention that he was responsible for quality management at APPI. As a quality manager, he did not take the necessary steps to ensure APPI’s compliance with its government contracts. Brewster knew or should have known that APPI provided parts to the Government that did not comply to contract specifications.

Respondents and Brewster offer little in mitigation of their acknowledged misconduct of supplying non-conforming parts to the Government. The Respondents’ submissions offer little to indicate any further action by APPI to address the Level IV CAR. Although APPI claims to have initiated the process of becoming registered and qualified per ISO 9000⁶, inclusion into such an organization would be meaningless if APPI continues to demonstrate its present non-responsibility by ignoring contract requirements it deems “irrelevant.”

⁵ The Report, p.1.

⁶ According to <http://www.iso.org>, the International Organization for Standardization is a network of national standards institutes from 148 countries working in partnership with international organizations, governments, industry, business and consumer representatives and is a bridge between public and private sectors.

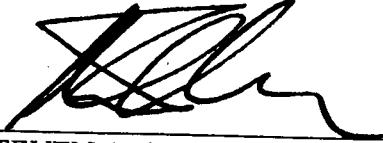
I have considered all the mitigating factors applicable to the Respondents and Brewster but do not find them persuasive. The preponderance of the evidence shows the Respondents and Brewster are non-responsible contractors, and they have failed to meet their burden of demonstrating their present responsibility.

FINDINGS

1. APPI's willful failure to perform in accordance with the terms of government contracts or subcontracts, and its history of unsatisfactory performance of government contracts or subcontracts, provides a separate basis for its debarment pursuant to FAR 9.406-2 (b)(1).
2. APPI's improper conduct is of so serious and compelling a nature that it affects its present responsibility to be a government contractor or subcontractor and provides a separate basis for its debarment pursuant to FAR 9.406-2(c).
3. Pursuant to FAR 9.406-1(b), debarments may be extended to the affiliates of a contractor. APPI, B. Skinner, Grant, and J. Skinner are affiliates as defined in FAR 9.403 (affiliates), because directly or indirectly B. Skinner, Grant, and J. Skinner control or can control APPI. The affiliation of APPI, B. Skinner, Grant, and J. Skinner provides a separate basis for their debarments.
4. Pursuant to FAR 9.406-5(b), the seriously improper conduct of APPI may be imputed to B. Skinner, Grant, J. Skinner, and Brewster because as officers, directors, shareholders, partners, employees, or other individuals associated with APPI, they participated in, knew of, or had reason to know of APPI's seriously improper conduct. The imputation of APPI's seriously improper conduct provides a separate basis for the debarments of B. Skinner, Grant, J. Skinner, and Brewster.

DECISION

Pursuant to the authority granted by FAR Subpart 9.4, Defense FAR Supplement, Subpart 209.4, and 32 C.F.R. Section 25, and based on the preponderance of the evidence contained in the administrative record and the findings herein, Allied Precision Products, Incorporated, Ben Skinner, Vivian Grant, J.B. Skinner and Steve Brewster are debarred for a period of three years from September 29, 2003, the date they were proposed for debarment. Their debarments shall terminate on September 28, 2006.


STEVEN A. SHAW
Deputy General Counsel
(Contractor Responsibility)